

***United States Court of Appeals  
for the Second Circuit***



**REPLY BRIEF**



ORIGINAL

# 75-4122

To be argued by  
CHARLES A. GIULINI, JR.

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**United States Court of Appeals  
FOR THE SECOND CIRCUIT**

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DOCKET No. 75-4122

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MARCO NIKPRELEVIC,

*Petitioner,*

—v.—

IMMIGRATION AND NATURALIZATION SERVICE,

*Respondent.*

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PETITION FOR REVIEW OF AN ORDER OF THE  
BOARD OF IMMIGRATION APPEALS

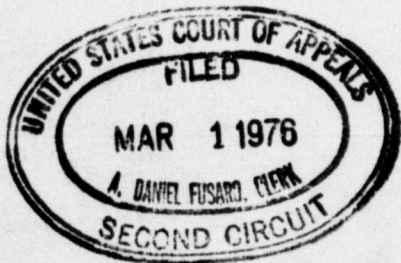
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**REPLY BRIEF**

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**REPLY BRIEF**

Petitioner Marco Nikprelevic answers the brief of the Immigration and Naturalization Service as follows:

1. Reproduced in whole are newspaper articles printed in the *New York Times*, January 16, 1975 (see p. A1 attached) which depicts Yugoslav citizens of Albanian ethnic origin as "second class citizens" and not treated as equal as other Yugoslav citizens by the Yugoslav authorities.

Another article reproduced here in toto was published in the *New York Times* January 22, 1976 (see p. A2 attached) which reports that Yugoslavia has recently gone "hard line" with respect to Com-

munist ideology, is no longer considered by the West as a liberal Communist country and has more political prisoners in its jails than persons convicted for crime.

These articles written by Malcolm W. Browne a special correspondent of the *New York Times* reflects the actual political climate of Yugoslavia today towards ethnic Albanians and the political scene in general. If the petitioner sought political asylum today under the new revelations of communist policy and doctrines in Yugoslavia would the advisory opinion of the State Department be the same or be different? I think it would be different.

2. Nowhere in the government's brief can there be found a denial or an attempt to clarify Point VIII of petitioner's brief, i.e., the program established by our government to admit over Ten Thousand Yugoslav citizens of Albanian descent to this country as political refugees. This omission is deliberate because the truth cannot be disputed. How then can the Government now take the position that petitioner will not be persecuted upon his return? In the *New York Post*, May 5, 1975 in an article written by Robert Bazell, reproduced here in part, specifically refers to the program established by President Kennedy for political refugees of Albanian descent:

"One of the city's least-known immigrant groups, the Albanians began arriving in this country in the early '60s when President Kennedy declared them a special category of political refugees from communism, exempt from the usual immigrant quotas." It appears then, that petitioner would be persecuted if returned due to his race.

3. The government also does not respond to the objections of counsel regarding the introduction of evidence relating to the relatives of the petitioner, during the deportation hearing.

4. The government's brief states that no evidence has been given by the petitioner to show he will be prosecuted for the death of the Yugoslav citizen in New York. This is not true and in (JA-p. 23A). The Immigration Judge asks counsel for petitioner the rationale for petitioner's contention that he will be prosecuted again for the death of a Yugoslav citizen. Counsel answered without objection and without contradiction that through conversations with the Consul General of Yugoslavia, relating to the petitioner's chances of prosecution for killing a Yugoslav citizen, that the petitioner would still be prosecuted despite the punishment he received here.
5. Query: Would the decision of this Court be influenced and the outcome of this case be different if the death of the girl arose from some political activity that the petitioner has forbidden his counsel to discuss?

Wherefore, it is respectfully submitted that there is enough evidence before this Court to prove that:

1. Petitioner would face prosecution if deported to Yugoslavia not only for his racial and religious background but his ethnic and political beliefs.
2. That petitioner faces another term of imprisonment if deported and petitioner can prove that articles appeared in Yugoslav newspapers relating to stories of the death of the Yugoslav girl friend of the petitioner. Also that Yugoslav Consulate personnel visited the petitioner in prison.
3. This government itself instituted a refugee program for Yugoslav citizens of Albanian origin to come to the United States where they would be treated as equal instead of "second class citizens" in their own country. Respondent refuses to so recognize the petitioner as such a refugee now.
4. That the "double jeopardy" clause provided in the Fifth Amendment of the United States Constitution



was promulgated for the humane treatment of individuals faced with criminal charges. The forum wherein petitioner raises this issue seeking to invoke the privilege is now in the Circuit Court of Appeals and was raised in the 243(4) application which was designed with humanitarian purposes in mind.

Respectfully submitted,

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## APPENDIX

THE NEW YORK TIMES, THURSDAY, JANUARY 16, 1975

## Yugoslavia Jails 4 Ethnic Albanians

By MALCOLM W. BROWNE

Special to The New York Times

BELGRADE, Yugoslavia, Jan. 15—Four Yugoslavs of Albanian origin have been tried and imprisoned on charges of plotting against the state and the Communist party.

The intent appeared to be to discourage organized dissent in the Serbian province of Kosovo, whose predominantly Albanian population is by far the poorest in Yugoslavia. Sociologists have likened the position of Albanians in this multinational society to that of blacks in the United States.

An announcement by the state press agency, Tanyug, did not disclose details of the trial or the charges. It said that the trial had "proved the defendants' enemy activity, conducted in the form of irredentism, to have been aimed against the socialist self-management system in Yugoslavia." They were sentenced to terms of three to nine years.

The use of the term "irreden-



The New York Times/Jan. 14, 1975

Trial was held in Kosovo

tism"—meaning the belief that peoples of the same linguistic and ethnic heritage should belong to one nation—implies that the defendants advocated the secession of Kosovo from Yugoslavia so it could be joined to neighboring Albania.

A special relationship has long existed between Kosovo and Albania, which is the

most xenophobic nation in Europe. An ally of China, she rejects any but the most formal contacts with the rest of the world and her borders are generally closed.

Such formality applies to neighboring Yugoslavia, despite diplomatic and trade relations. While most Yugoslav citizens are barred from private travel to Albania, ethnic Albanians may travel fairly freely to and from Albania.

The defendants at the trial, which took place in Pristina, capital of Kosovo, were charged with belittling the position of region and of Albanians generally in Yugoslav society. They were also accused of pro-Soviet leanings.

Despite almost daily denials, Yugoslav officials are showing growing concern about the potentially centrifugal effects of nationalist forces among peoples of distinct linguistic, ethnic and religious backgrounds. There also appears to be increasing official resistance to divergence from the party line.

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THE NEW YORK TIMES, THURSDAY, JANUARY 10, 1970

## Yugoslavs Spur Drive Against Dissent

By MALCOLM W. BROWNE

Special to The New York Times

BELGRADE, Yugoslavia, Jan. 21—A three-year-old Yugoslav policy of stiffening enforcement of the official Communist line has grown increasingly stern in recent months.

As a result, Yugoslavia—once viewed by the West as one of the most liberal Communist nations—has jailed hundreds of political dissidents, and criticism of its leaders has been more effectively muted than ever in recent years.

The authorities have sought to root out and destroy "enemy activity" in every possible social, political or religious community at home and abroad.

Despite the drive against dissidents, the frontiers of Yugoslavia are still relatively open and most Yugoslavs can obtain a passport for foreign travel in

a matter of hours. This does not apply to anyone suspected of dissidence.

Western publications circulate in Yugoslavia, but issues containing an article or material Yugoslavs regard objectionable are barred from the country.

Official attitudes toward dissidence have varied over the years. The so-called centralist period of the 1960's, marked by heavy repression, was followed by a relaxed period until 1972.

The current campaign has included arrests and long prison sentences, threats and harassment, closure or seizure of publications, purging of university faculties and midnight raids on the offices of prominent writers.

Dozens of speeches by national leaders in the last few months have extolled the work of security agencies and private informers in beating back "the enemy" in all his manifestations.

President Tito is now 83, and at the moment is weakened by sciatica, for which he is undergoing treatment. For the last three decades, his rule has been personal, powerful and unchallenged. But the time of his passing may not be distant, and current trends seem likely to increase as Communist leaders prepare for a possible crisis.

Meanwhile, there is little hope for clemency on behalf of the many dissidents already in jail.

Some of those imprisoned are undoubtedly actual or would-be terrorists, even critics of the Government concede, and the Belgrade Government and its representatives abroad face real problems with terrorism.

Last year a Yugoslav vice consul, Mladen Dugovic, was seriously wounded in a machine-gun attack in Lyons, France. A Yugoslav tourist office in Mel-

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Continued on Page 15, Column 1



## Appendix

Continued From Page 1, Col. 3

Melbourne, Australia, was blown up. Bombs damaged the Yugoslav mission to the United Nations in New York and the home of the Yugoslav consul in Chicago.

In addition, a handful of violent incidents in Yugoslavia itself included a bomb explosion in Zagreb last summer, at a time President Tito was in the city.

Belgrade's agents have sought to penetrate émigré Yugoslav groups. The Government has given public evidence of success in planting informers among Yugoslavs in Melbourne, Chicago, Stockholm and elsewhere in Western Europe as well as in the Soviet bloc.

Many Yugoslavs have returned to this country to discover to their cost that some conversation in a restaurant in a far-away country, months or years in the past, was overheard, recorded or remembered by the Yugoslav secret police. There is no statute of limitations in Yugoslavia, and the legal line between idle political gossip and the criminal offense of "hostile propaganda" is thin.

#### Arrested on Return

A large proportion of the persons sentenced to long prison terms during the past year were arrested on returning from abroad, especially from West Germany, where close to a half million Yugoslav migrant workers are employed. Offenses such as tossing leaflets from train windows bring sentences of six years or more at hard labor.

President Tito's Government, far from being embarrassed by foreign comment on the methods of its security agencies, has sought actually to publicize them.

The clear intention has been to impress the million or so Yugoslavs living abroad that they are not immune to the Yugoslav secret police.

Western criticism about Yugoslavia's political methods was recently characterized by the party magazine *Komunist* as "anarcho-liberal prattle about the so-called benefits of bourgeois freedoms."

Police efforts have not been limited to quashing terrorism. The authorities feel that there are three other major enemy

categories — separatists, foreigners who went to interfere, and local deviants from the party line.

In dealing with these and other enemies, including persons arrested for offenses committed during World War II against the Communist-led partisans, Yugoslavia may well have filled its jails with more political prisoners than any other country in eastern Europe, except the Soviet Union, which is estimated to be holding 10,000 political prisoners.

The number held in Yugoslavia is not publicly known. The authorities said last year that 200 political prisoners had been added. Senior Communist officials estimated that, since 1965, Yugoslav jails have held 8,000 political prisoners.

The separatists, particularly those pressing for an independent, non-Communist Croatia, are still regarded as the most numerous and troublesome group.

Yugoslavia is an amalgam of Balkan nations that were joined together in 1918 to form a new country. Since then, Serbs and Croats have often been at odds, and the harmony between them and the other main ethnic groups—Montenegrins, Albanians, Macedonians and Slovenes—has been spotty, at best.

Among the political prisoners seized last year were 103 separatists from Croatia, 33 from Kosovo, which is a predominantly Albanian province, and seven from Slovenia.

#### The Cominformist Issue

Another major group of prisoners are the so-called Cominformists, Communists advocating a return of Yugoslavia to the Soviet bloc, from which it was expelled in 1948. They are named for the Cominform, a Soviet led association of Communist parties that existed at the time.



## Appendix

President Tito and his aides have worried about the Cominformists for two reasons.

The first is that they have links with the Soviet security service, and in some future crisis could presumably appeal for Soviet help against what have been called "the Titoist renegades." Pro-Moscow Czechoslovak Communists asked for Soviet intervention against the liberal party leader, Alexander Dubcek, in just such a development in 1968.

The second reason is the loathing of President Tito and his colleagues for any kind of dissent among Yugoslav Communists.

The Government was appalled on learning that pro-Soviet Yugoslav Communists held a clandestine party congress of their own in the Montenegrin town of Bar in April 1974. In September, 32 of those who participated in the secret congress were sentenced to terms up to nine years. The police have also rounded up six Cominformists in Belgrade, including Dusan Brkic, a deputy prime minister until he was purged in 1950; seven in Bosnia-Herzegovina and nine in Vojvodina.

Vladimir Dapcevic, said to have been elected secretary general of the illegal party by its congress in Bar, is now in jail. An émigré, he disappeared last August on a visit from Belgium to Rumania, and was later revealed to have been seized by Yugoslav agents with the collusion of the Rumanians.

#### Pravda Conciliatory

Yugoslav-Soviet relations have been strained because of the Cominformist case, but a recent article in Pravda denouncing dissidents in Yugoslavia as "adventurists" seems to have put things partly right.

In any case, Yugoslav party leaders contend that there are also other enemy forces that should not be ignored.

Among them is organized religion, notably the Serbian Orthodox Church, the Roman Catholic Church and Yugoslavia's Moslem community.

Legal and police pressures against churches have mounted during the year, and new laws limiting church activity are expected to come into force.

When trials of political prisoners are held, they are pro forma, and conviction is virtually automatic. Sentences last year ranged from a few years in prison for an injudicious remark to a death sentence for a man convicted of planting three bombs.

Milovan Djilas, a former senior Yugoslav Communist who is now the regime's best known critic, has said that "no political defendant in Yugoslavia is ever acquitted."

Police handling of political cases has been fairly restrained at various times. The longest such period, from 1966 to 1972, is officially referred to as "the anarcho-liberalist period," and it was terminated by a stern set of party directives known as "The Letter," issued by Marshal Tito in 1972.

Within the past year, liberal thought in the universities of Belgrade, Zagreb and Ljubljana has been suppressed. Eight professors at Belgrade University were ousted, thus removing a liberal Marxist humanist school of thought from that institution.

#### Publication Is Closed

The only legal Yugoslav publication that had been permitted a certain degree of political criticism, the magazine Praxis, was forced to close. Many books and other publications were banned, and some issues of the Catholic magazine Glas Koncila were confiscated.

Academic symposiums have been raided by the police, writers have been officially warned or jailed, apartments have been ransacked for literary manuscripts.

"Tito is right to worry that the Russians and Americans will have a tug of war over Yugoslavia when he dies," one scholar said, "the country does have many unique problems. But no problems are worth solving by police-state methods, and we seem to be drifting back to that."

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